

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

US BANK NATIONAL ASSOCIATION,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 06-06132-CV-W-HFS
	)	
RQ SQUARED, LLC, et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM TO THE PARTIES**

I understand the parties are going in different directions regarding appointment of a receiver. Plaintiff has submitted the requested supplemental material and anticipates, from the tenor of our discussions, that an appointment is now timely. Mr. Oliver, on behalf of RQ Squared and the Grubbs has submitted discovery requests.

The selection of a receiver is a serious matter but I am not aware that discovery is authorized in what may be considered a collateral aspect of the proceeding. No hint of discovery has appeared in the litigation of which I am aware.

If I had the same sense of urgency as at the beginning of this case, when it seemed there might be an abandoned business entity, with the owners having departed for the wilds of California, I would like summarily sign on to the papers submitted by plaintiff. But there is now some verification of an ongoing but struggling business of some substance. Since Mr. Oliver is now raising questions, and implicitly supports my probing further into the selection, I am inclined to

schedule a hearing, as soon as convenient, to allow questioning of Mr. Lerman by me and Mr. Oliver, with such available documents as may satisfy reasonable inquiry.<sup>1</sup>

Unless counsel wish to have a further conference call they should cooperate in scheduling a short hearing.<sup>2</sup>

/s/ Howard F. Sachs  
HOWARD F. SACHS  
UNITED STATES DISTRICT JUDGE

December 18, 2006

Kansas City, Missouri

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<sup>1</sup>The uncertainty of who will be in charge has now continued for some weeks. If this is demoralizing it would mostly affect operating personnel under defendants, and their counsel seems content to prolong uncertainty for additional days.

<sup>2</sup>I recognize that one purpose of slowing the selection may be to allow filing of bankruptcy proceedings or a decision regarding bankruptcy. If that becomes imminent I suppose the complication of a brief receivership should best be avoided.